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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

JEFF WERNER, an individual California
resident,

Plaintiff,

v.

STANTEC CONSULTING SERVICES, INC.,
a New York corporation; and DOES 1-50,
inclusive,

Defendants.

Case No.: 30-2018-01026320-CU-WT-CIC
Judge Martha K. Gooding

COMPLAINT FOR:

- (1) WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;**
- (2) VIOLATION OF LABOR CODE SECTION 1102.5(C);**
- (3) AGE DISCRIMINATION IN VIOLATION OF THE FEHA;**
- (4) RETALIATION IN VIOLATION OF THE FEHA;**
- (5) FAILURE TO PREVENT DISCRIMINATION IN VIOLATION OF THE FEHA;**
- (6) VIOLATION OF LABOR CODE SECTION 970;**
- (7) INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

DEMAND FOR TRIAL BY JURY

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1 Plaintiff Jeff Werner ("Plaintiff") hereby makes this complaint against defendants Stantec
2 Consulting Services, Inc., ("Stantec"), a New York corporation; and Does 1 through 50 inclusive
3 (collectively, as "Defendants"), and each of them, alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. The Court has personal jurisdiction over the Defendants because they are residents
6 of and/or doing business in the State of California.

7 2. Venue is proper in this county in accordance with Section 395(a) of the California
8 Code of Civil Procedure because the Defendants, or some of them, reside in this county, and the
9 injuries alleged herein occurred in this county. Stantec is a New York corporation authorized to
10 conduct business in the state of California with its principal office in the State of California located
11 at 19 Technology Drive, Irvine, CA, 92618.

12 **THE PARTIES**

13 3. At all times mentioned herein, Plaintiff was, and now is, an individual residing
14 within the County Orange, State of California.

15 4. Plaintiff is informed and believes, and based thereon alleges, that Stantec is, and at
16 all relevant times herein was, a California corporation, which regularly and systematically does
17 business in the County of Orange, California.

18 5. Plaintiff is unaware of the true names and capacities of Defendants sued herein as
19 Does 1-50, inclusive ("Doe Defendants"), and therefore sues these Doe Defendants by such
20 fictitious names. Plaintiff will seek leave to amend this Complaint to allege the true names and
21 capacities of said Doe Defendants when ascertained. Plaintiff is informed and believes, and
22 thereon alleges, that at all relevant times mentioned herein, each of the fictitiously-named Doe
23 Defendants conducted business in Orange County, California, and are culpable or responsible in
24 some manner and/or conspired with one or more of the other Defendants for the conduct, acts,
25 omissions, occurrences, injuries, and damages herein alleged, and that Plaintiff's injuries and
26 damages were directly and proximately caused thereby.

27 6. Plaintiff is informed and believes, and based thereon alleges, that at all times
28 mentioned herein, each defendant was the joint employer, agent, servant, employee, alter ego

1 and/or associate of each of the other defendants, and was at all times acting within the course and
2 scope of such relationship.

3 **GENERAL ALLEGATIONS**

4 7. Stantec originally hired Plaintiff as a Change and Claims Manager to process project
5 change orders on a five-year construction engineering and inspection ("CE&I") contract
6 ("Crenshaw/LAX Transit Project" or "CLAX Project") with the Los Angeles County Metropolitan
7 Transportation Authority ("LACMTA"). Mr. Werner was very successful in his work on the
8 Crenshaw/LAX Transit Project and held a secure and stable position working with LACMTA.

9 8. On or about August 25, 2015, Stantec entered into a CE&I contract agreement with
10 the Honolulu Authority for Rapid Transportation ("HART"). The contract provided for a term of
11 agreement until December 31, 2019.

12 9. In the fall of 2015, Stantec Vice President Brian Norris began recruiting Plaintiff to
13 work on the HART project. Norris repeatedly represented to Plaintiff that the HART Project was at
14 least a 10-year project. However, Norris failed to disclose the HART Project had an extremely
15 high turnover rate. In addition, Norris failed to disclose the City of Honolulu audited HART in
16 April 2016 and documented numerous project management and contract administration
17 "deficiencies [that] could lead to noncompliant and questionable practices."

18 10. In June 2016, Stantec approved Plaintiff for hiring as Change and Claims Manager
19 on the HART project.

20 11. In August 2016, based on Stantec's representations about the 10-year length and
21 duration of the HART project, Plaintiff and his wife relocated from Orange County, California to
22 Hawaii.

23 12. After Plaintiff began working for Stantec on the HART Project, Plaintiff discovered
24 violations of contract change order procedures and reported these violations to Norris. More
25 specifically, Plaintiff discovered that mandatory contractor change order procedures were not being
26 followed and that hundreds of old change orders totaling over five million dollars had not been
27 processed in violation of Federal Transit Authority ("FTA") requirements and HART contractual
28 obligations.

1 13. For example, FTA Circular 4220.1F, Chapter VII, Section 2(a)(1) establishes
2 contracting standards for recipients of federal assistance, including HART, and requires inter alia
3 that they have justification for any project change orders:

4 *[The] FTA expects the recipient to have cost justifications supporting*
5 *each change order it may issue. FTA expects the recipient's*
6 *authorized official to approve any proposed change order before it is*
 issued.

7 Moreover, Stantec's contract agreement with HART specifically adopted these requirements:

8 *This Agreement includes, in part, certain standard terms and*
9 *conditions required by the FTA, whether or not expressly set-forth in*
10 *the Agreement provisions. All provisions required by the FTA, as set*
11 *forth in FTA Circular 4220.1F, as amended, will be incorporated by*
12 *reference. . . . The Contractor shall not perform any act, fail to*
 perform any act, or refuse to comply with any HART requests which
 would cause HART or the City to be in violation of FTA terms and
 conditions.

13
14 (Agreement dated Sept. 5, 2015, Appendix A, § III [FEDERAL CLAUSES].) The purpose of these
15 requirements is to protect the public from fraud and corruption on federally funded transit projects.

16 14. However, HART did not obtain or require accurate cost justifications for change
17 orders as prescribed by FTA Circular 4220.1F and did not approve proposed change orders before
18 the contractors' work was commenced. Instead, HART delayed processing approval or obtaining
19 cost estimates for these change orders until long after contractors had begun work, and sometimes
20 even completed work, in violation of FTA requirements. As indicated above, this led to HART
21 delaying and failing to process over 100 change orders totaling in excess of five million dollars.

22 15. In addition, Federal Acquisition Regulation ("FAR") section 43.204(b) requires that
23 "[c]ontracting officers shall negotiate equitable adjustments resulting from change orders in the
24 shortest practicable time." (See 48 C.F.R. § 43.204(b).) However, in violation of this requirement,
25 HART deliberately and intentionally delayed change order processing and payments to contractors
26 for years due to project funding issues, after changed work was completed, without accurate cost
27 justifications, resulting in substantial additional costs due to overpayments and litigation. The
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1 significant additional cost to the taxpayers could have been avoided if HART had complied with
2 lawful change order procedure, FTA Circular 4220.1F, FTA Best Practices, and FAR.

3 16. In addition, Plaintiff managed a team of change order and claims support
4 administration staff including: Document Control Specialists Lalana Moe and Katherine Eum as
5 well as Office Engineer Julie Hero. During the course of his employment on the HART Project,
6 Plaintiff witnessed numerous occasions in which HART Project Manager Greg Rapp verbally
7 abused and bullied these female support staff to tears for merely doing their jobs. For example, on
8 several occasions, Rapp abused and bullied these female employees because they had routed
9 change order packages to Rapp for his review and approval for timely processing. Plaintiff told
10 Rapp to stop harassing, abusing, and bullying the administrative staff and to report complaints
11 directly to him. Plaintiff also reported all instances of bullying to Norris, but Norris did not take
12 any corrective action, and the bullying continued unabated.

13 17. Plaintiff continued to report the contract change order procedure violations and
14 workplace violence to Norris. However, neither Stantec nor Norris took any corrective action to
15 address the contract change order procedure violations or the workplace violence. Plaintiff advised
16 Norris that he would report the violations and the workplace violence to Stantec's human resources
17 department if the violations and the workplace violence were not corrected.

18 18. On or about November 25, 2016, Plaintiff complained to HART Deputy Director of
19 Construction Kevin Cox and Norris that HART's change order process "*is not an approved*
20 *procedure.*" From November 2016 to May 2017, Plaintiff repeatedly objected to the unlawful
21 change order procedures. In April and May 2017, Plaintiff told Norris that if these violations were
22 not corrected, he would be forced to report the violations to Stantec Human Resources.

23 19. On or about May 31, 2017, Plaintiff met with Norris to discuss violations of the
24 change order process as well as other violations in the workplace. However, on June 1, 2017,
25 Norris informed Plaintiff that his position was being eliminated and that he was going to be
26 reassigned by the end of the year. In June, 2017, Norris offered to return Plaintiff to California
27 based on the understanding HART was reorganizing and eliminating Plaintiff's position.

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1 20. After Plaintiff accepted Norris' offer to return to California, Stantec advertised
2 Plaintiff's position on the Stantec website. Plaintiff confronted Norris about the fact Stantec was
3 advertising Plaintiff's position, and Norris claimed HART wanted two less experienced personnel
4 to replace Plaintiff. Plaintiff told Norris Stantec was engaging in age discrimination. The
5 following day Stantec removed the job posting and directed Stantec subconsultants to advertise for
6 the positions. Within a month, Stantec subconsultants hired two younger, less-experienced, less-
7 qualified and lower paid individuals to replace Plaintiff on the HART Project.

8 21. On August 18, 2017, the Stantec Human Resources Department ("HR") contacted
9 Plaintiff when it learned he had relocated to California. Plaintiff disclosed the change order
10 procedure violations, workplace violence and discrimination. HR asked Plaintiff if he wanted to
11 file a complaint. Plaintiff advised HR he was fearful Norris would retaliate against him if Plaintiff
12 filed a complaint. However, HR assured Plaintiff his complaint and any investigation would be
13 confidential. In reliance on HR's representations of confidentiality, Plaintiff consented to file a
14 complaint.

15 22. On or about August 19, 2017 and August 21, 2017, Plaintiff, who was now working
16 in California, reported to Stantec HR about the unlawful retaliation, violations of change order
17 procedures, hostile work environment, and age discrimination, among other violations.

18 23. In addition, on or about September 2, 2017, Plaintiff made the following complaint
19 to HR regarding age discrimination:

20 *"Also, Stantec has hired 2 Contract Administrators, Pam Riser and*
21 *James McClellan after I was removed from the project. My*
22 *understanding is they will report to the RE's and process change*
23 *orders. Both Pam and James are younger and less experienced than*
24 *I am. I believe my removal from the project is a terrible mistake."*

25 24. After alerting Stantec HR, Plaintiff emailed the HART Director of Procurement on
26 or about September 2, 2017, disclosing further contract administration procedures violations
27 specifically involving HART's subcontractor Shimmick, Traylor Brothers and Granite ("STG"),
28 the joint venture design-builder for the Airport Guideway Stations (AGS) contract. Mr. Werner

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specifically made the following complaints to the Director of Procurement:

"I have expressed in previous emails to the project management team of my disagreement with withholding \$17M from STG's pay application and the risk to HART of prompt payment penalties."

"Even though the contract allows HART to withhold monies for this issue, case law precedence has been [that] the amount withheld has to be fair and reasonable related to the STG contract breach or non-compliance."

"The ASU project had hundreds of changes backed up and there was complete noncompliance with the HART change order process."

"The PM [Greg Rapp] was controlling the process which resulted in procurement violations."

"The purpose of this email is [to] alert Procurement of the immediate risk to HART."

25. On or about September 8, 2017, Plaintiff notified HART Project Manager Greg Rapp that STG submitted time and material cost records for an unauthorized change order. Rapp immediately informed Norris of Plaintiff's whistleblowing complaints. That same day, Norris removed Plaintiff from the HART Project, directed him not to perform any work, and prohibited him from contacting any HART personnel.

26. On or about September 8, 2017, Norris sent Plaintiff an email stating that "[e]ffective EOD, Friday, September 8, 2017 you [Plaintiff] are no longer authorized to charge the project, directly contact the client or staff, discuss any project details, or participate on the project in any manner."

27. On or about September 13, 2017, Mr. Werner submitted a written complaint to the Stantec Integrity Hotline reporting "suspected age discrimination related to [his] removal from the project and being replaced by younger staff."

28. On or about September 13, 2017, Plaintiff submitted a written complaint to Stantec Integrity Hotline reporting Rapp's abusive, hostile and bullying behavior directed at the female administrative employees.

29. On October 21, 2017, Stantec placed Mr. Werner on unpaid furlough leave. Three days later, on October 24, 2017, Stantec terminated Mr. Werner's employment.

30. On December 4, 2017, Plaintiff filed a Charge of Discrimination with the California Department of Fair Employment and Housing alleging discrimination on the basis of his age and retaliation for his opposition to discrimination, and the Department of Fair Employment and Housing issued a right to sue letter. On October 16, 2018, Plaintiff filed a supplemental Charge of Discrimination with the California Department of Fair Employment and Housing alleging discrimination on the basis of age and retaliation for his opposition to discrimination, harassment and bullying of co-workers, and the Department of Fair Employment and Housing issued a right to sue letter.

FIRST CAUSE OF ACTION

Wrongful Termination in Violation of Public Policy

(Against All Defendants)

31. Plaintiff realleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 301, inclusive, hereinabove, as though set forth in full.

32. Pursuant to laws of the United States, the State of California, and the State of Hawaii, it is unlawful for an employer to retaliate against an employee for reporting or disclosing violations of law to the employer or to government agencies. The United States Whistleblower Protection Act of 1989 (5 U.S.C. § 2302) provides as follows:

An employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority--(8) take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of--(A) any disclosure of information by an employee or applicant which the employee or applicant reasonable believes evidences--(i) any violation of any law, rule, or regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

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1 In addition to federal law, the California Labor Code section 1102.5 also prohibits
2 retaliation against any employee for disclosing a violation of law:

3 *(b) An employer . . . shall not retaliate against an employee for*
4 *disclosing information, or because the employer believes that the*
5 *employee disclosed or may disclose information, to a government or*
6 *law enforcement agency, to a person with authority over the*
7 *employee or another employee who has the authority to investigate,*
8 *discover, or correct the violation or noncompliance . . . if the*
9 *employee has reasonable cause to believe that the information*
discloses a violation of state and federal statute, or a violation of or
noncompliance with a local, state, or federal rule or regulation,
regardless of whether disclosing the information is part of the
employee's job duties.

10 Hawaii Revised Statutes section 378-62 provides as follows:

11 *An employer shall not discharge, threaten, or otherwise discriminate*
12 *against an employee regarding the employee's compensation, terms,*
13 *conditions, location, or privileges of employment because: (1) The*
14 *employee or a person acting on behalf of the employee, reports or is*
15 *about to report to the employer, or reports or is about to report to a*
16 *public body, verbally or in writing, a violation or a suspected*
violation of: (A) a law, rule, ordinance, or regulation, adopted
pursuant to law of this State, a political subdivision of this State or
the United States; or (B) A contract executed by the State, a political
subdivision of the State, or the United States.

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18 33. In this case, Stantec retaliated against Plaintiff in violation of these laws and
19 California public policy by docking his pay, transferring him back to California, placing him on
20 unpaid furlough, and ultimately terminating his employment because he reported and disclosed
21 violations of law to HART and to Stantec senior management.

22 34. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff has
23 been directly and legally caused to suffer actual damages including, but not limited to, loss of
24 earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary loss not
25 presently ascertained.

26 35. As a further direct and legal result of the acts and conduct of Defendants, and each
27 of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer severe
28 emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, discomfort,

1 anxiety, physical pain and suffering. The exact nature and extent of said injuries is presently
2 unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of said
3 injuries, but he is informed and believes and thereon alleges that some if not all of the injuries are
4 reasonably certain to be permanent in character.

5 36. Plaintiff is informed and believes, and thereon alleges, that Defendants, and each of
6 them, by engaging in the aforementioned acts and/or in authorizing and/or ratifying such acts,
7 engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted with
8 willful and conscious disregard of the rights, welfare and safety of Plaintiff, thereby justifying the
9 award of punitive and exemplary damages in an amount to be determined at trial.

10 37. As a result of Defendants' conduct as alleged herein, Plaintiff is entitled to
11 reasonable attorneys' fees and costs of suit as provided in Section 1021.5 of the California Civil
12 Procedure Code.

13 **SECOND CAUSE OF ACTION**

14 **Violation of California Labor Code Section 1102.5(c)**

15 **(Against All Defendants)**

16 38. Plaintiff realleges and incorporates herein by reference each and every allegation
17 contained in paragraphs 1 through 37, inclusive, hereinabove, as though set forth in full.

18 39. Pursuant to California Labor Code § 1102.5(c), an employer may not retaliate
19 against an employee for refusing to participate in an activity that would result in a violation of a
20 state or federal statute, or noncompliance with a state or federal regulation.

21 40. As alleged in detail above, during Plaintiff's employment with Defendants, he
22 reported violations of the laws of the United States, California and Hawaii to HART and Stantec
23 management.

24 41. Defendants violated Plaintiff's rights under Labor Code § 1102.5 by docking his
25 pay, transferring him back to California, placing him on an unpaid furlough, and terminating his
26 employment.

27 42. As a direct and proximate result of Defendants' violations of Plaintiff's rights,
28 Plaintiff has suffered severe and substantial damages including past and future lost employment

1 earnings and benefits, diminished earning capacity, loss of reputation, mental and emotional
2 anguish, litigation costs including attorney's fees and other compensatory damages in an amount to
3 be determined.

4 **THIRD CAUSE OF ACTION**

5 **Age Discrimination in Violation of the Fair Employment and Housing Act**
6 **(Against All Defendants)**

7 43. Plaintiff realleges and incorporates herein by reference each and every allegation
8 contained in paragraphs 1 through 42, inclusive, hereinabove, as though set forth in full.

9 44. California Government Code section 12940 provides that:

10 *It is an unlawful employment practices . . . (a) [f]or an employer,*
11 *because of . . . age . . . to discharge the person from employment . . .*
12 *or to discriminate against the person in compensation or in terms,*
conditions, or privileges of employment.

13 45. The termination of Plaintiff's employment by Defendants constitutes discrimination
14 based on age in violation of Government Code Section 12940(a).

15 46. Plaintiff was a member of a protected class at 61 years of age. Plaintiff was
16 qualified to work as a Change and Claims Manager. Plaintiff had over 43 years of professional
17 construction experience, including significant management experience. Plaintiff received multiple
18 advanced degrees including a Bachelor of Business Administration, Master of Business
19 Administration, and Juris Doctor, as well as a Master Certificate in Project Management and
20 multiple other certifications.

21 47. Plaintiff was subjected to adverse employment action by Stantec from June to
22 October 2017, including being wrongfully transferred, docked pay, furloughed, and terminated.

23 48. Even though Plaintiff's role as a Change and Claims Manager is necessary and
24 integral to CE&I contracts, including the HART Project, Plaintiff was replaced by two other much
25 younger individuals with less experience and qualifications for the job than Plaintiff.

26 49. Plaintiff is informed and believes the younger, less-experienced individuals whom
27 Stantec hired to replace Plaintiff were paid less than Plaintiff. (See Gov. Code § 12941 ["[T]he use
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1 of salary as the basis for differentiating between employees when terminating employment may be
2 found to constitute age discrimination . . .”].)

3 50. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff has
4 been directly and legally caused to suffer actual damages including, but not limited to, loss of
5 earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary loss not
6 presently ascertained.

7 51. As a further direct and legal result of the acts and conduct of Defendants, and each
8 of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer severe
9 emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, discomfort,
10 anxiety, physical pain and suffering. The exact nature and extent of said injuries is presently
11 unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of said
12 injuries, but he is informed and believes and thereon alleges that some if not all of the injuries are
13 reasonably certain to be permanent in character.

14 52. Plaintiff is informed and believes, and thereon alleges, that Defendants, and each of
15 them, by engaging in the aforementioned acts and/or in authorizing and/or ratifying such acts,
16 engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted with
17 willful and conscious disregard of the rights of Plaintiff, thereby justifying the award of punitive
18 and exemplary damages in an amount to be determined at trial.

19 **FOURTH CAUSE OF ACTION**

20 **Retaliation in Violation of the Fair Employment and Housing Act**

21 **(Against All Defendants)**

22 53. Plaintiff realleges and incorporates herein by reference each and every allegation
23 contained in paragraphs 1 through 52, inclusive, hereinabove, as though set forth in full.

24 54. Government Code section 12940(h) provides that it is an unlawful employment
25 practice to “*discharge, expel, or otherwise discriminate against any person because the person has*
26 *opposed any practices forbidden under this part or because the person has filed a complaint,*
27 *testified, or assisted in any proceeding under this part.*” In this case, Stantec discriminated against
28

1 Plaintiff in violation of Government Code section 12940(h) because he opposed and complained
2 about unlawful age discrimination and Rapp's harassment and bullying of female employees.

3 55. On or around August 19, 2017 and August 21, 2017, Plaintiff complained of age
4 discrimination in phone interviews with Stantec Human Resources Representative Eunice
5 Hernandez.

6 56. On September 2, 2017, Mr. Werner made the following complaint to the HART
7 regarding age discrimination:

8 *"Also, Stantec has hired 2 Contract Administrators, Pam Riser and*
9 *James McClellan after I was removed from the project. My*
10 *understanding is they will report to the RE's and process change*
11 *orders. Both Pam and James are younger and less experienced than*
12 *I am. I believe my removal from the project is a terrible mistake."*

13 57. Less than one week after Plaintiff made this complaint, Stantec removed him from
14 the HART project.

15 58. On September 13, 2017, Plaintiff submitted a written complaint to the Stantec
16 Integrity Hotline reporting *"suspected age discrimination related to [his] removal from the project*
17 *and being replaced by younger staff."*

18 59. In addition, Plaintiff managed a team of change order and claims support
19 administration staff including: Document Control Specialists Lalana Moe and Katherine Eum as
20 well as Office Engineer Julie Hero. During the course of his employment on the HART Project,
21 Plaintiff witnessed numerous occasions where Rapp verbally abused and bullied these female
22 support staff to tears for merely doing their jobs. Plaintiff told Rapp to stop harassing, abusing, and
23 bullying the administrative staff and to report complaints directly to him. Plaintiff also reported all
24 instances of bullying to Norris. No action was taken by Norris, and the bullying continued. Rather
25 than addressing this abuse, harassment and workplace violence, Defendants removed Mr. Werner
26 from the HART project in June 2017.

27 60. Rather than investigate Plaintiff's complaints of age discrimination, workplace
28 harassment and workplace violence, Stantec placed Plaintiff on unpaid furlough leave on or about

1 October 21, 2017. Three days later, on or about October 24, 2017, Stantec terminated Plaintiff's
2 employment.

3 61. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff has
4 been directly and legally caused to suffer actual damages including, but not limited to, loss of
5 earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary loss not
6 presently ascertained.

7 62. As a further direct and legal result of the acts and conduct of Defendants, and each
8 of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer severe
9 emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, discomfort,
10 anxiety, physical pain and suffering. The exact nature and extent of said injuries is presently
11 unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of said
12 injuries, but he is informed and believes and thereon alleges that some if not all of the injuries are
13 reasonably certain to be permanent in character.

14 63. Plaintiff is informed and believes, and thereon alleges, that Defendants, and each of
15 them, by engaging in the aforementioned acts and/or in authorizing and/or ratifying such acts,
16 engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted with
17 willful and conscious disregard of the rights of Plaintiff, thereby justifying the award of punitive
18 and exemplary damages in an amount to be determined at trial.

19 **FIFTH CAUSE OF ACTION**

20 **Failure to Prevent Discrimination in Violation of the Fair Employment and Housing Act**
21 **(Against All Defendants)**

22 64. Plaintiff realleges and incorporates herein by reference each and every allegation
23 contained in paragraphs 1 through 63, inclusive, hereinabove, as though set forth in full.

24 65. Government Code section 12940(k) requires employers to "*take all reasonable steps*
25 *necessary to prevent discrimination and harassment from occurring.*"

26 66. Defendants failed to take reasonable steps to prevent age discrimination against
27 Plaintiff.

67. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary loss not presently ascertained.

68. As a further direct and legal result of the acts and conduct of Defendants, and each of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, discomfort, anxiety, physical pain and suffering. The exact nature and extent of said injuries is presently unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of said injuries, but he is informed and believes and thereon alleges that some if not all of the injuries are reasonably certain to be permanent in character.

69. Plaintiff is informed and believes, and thereon alleges, that Defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing and/or ratifying such acts, engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted with willful and conscious disregard of the rights of Plaintiff, thereby justifying the award of punitive and exemplary damages in an amount to be determined at trial.

SIXTH CAUSE OF ACTION

Violation of Labor Code Section 970

(Against All Defendants)

70. Plaintiff realleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 70, inclusive, hereinabove, as though set forth in full.

71. California Labor Code section 970 provides that:

No person . . . shall influence, persuade, or engage any person to change from one place to another in this State or from any place outside to any place within the State, or from any place within the State to any place outside, for the purpose of working in any branch of labor, through or by means of knowingly false representations, whether spoken, written, or advertised in printed form, concerning either: (a) The kind, character, or existence of such work; (b) The length of time such work will last, or the compensation therefor . . .

1 72. Defendants induced Plaintiff to change his place of residence from California to
2 Hawaii in August 2016 based on several misrepresentations about the nature of his work, including
3 the character and duration of the position in Hawaii.

4 73. In August 2013, before Plaintiff was hired, Stantec approached him regarding a
5 long-term project in Hawaii for HART. At that time, Plaintiff was gainfully employed with long-
6 term career opportunities at HDR Engineering, a large international engineering firm and a
7 competitor to Stantec. Plaintiff informed Stantec that he would be interested in the HART Project
8 if it was a long-term opportunity.

9 74. However, HART did not originally award the East CE&I contract to Stantec in
10 2014. As a consequence, Stantec recruited Plaintiff to work on a 5-year project in Los Angeles as
11 Claims Manager on the CLAX Project. Stantec offered Plaintiff a job on the CLAX Project, and
12 Plaintiff went to work for Stantec on the CLAX Project on March 17, 2014.

13 75. In early 2015, HART announced that the East CE&I contract would be re-bid.
14 Stantec again competed for the contract. Stantec was awarded the contract on August 17, 2015.

15 76. On multiple occasions, Stantec Vice President Brian Norris indicated and
16 represented to Plaintiff that the HART Project would be a 10-year project lasting through at least
17 2025.

18 77. However, Norris misrepresented the duration of Stantec's engagement with HART.
19 It was not a 10-year project as he indicated. Rather, Stantec's CE&I contract agreement with
20 HART specifically defined a term date through December 31, 2019, with HART's unilateral option
21 to renew the contract for up to two additional years:

22 *"The term of this Agreement will be from issuance of Notice to*
23 *Proceed through December 31, 2019, provided, however, that HART*
24 *may exercise the option to extend the period of performance of this*
25 *Agreement up to an additional two (2) years pursuant to the*
26 *provision of the Contract Document."*

27 (Sept. 10, 2015 Contract, § 3 [Term of Agreement].)
28

1 78. Rather than being a 10-year project, Stantec's engagement with HART was to last
2 only just over four years, and possibly renewable up to six. Thus, Norris knowingly
3 misrepresented the duration of the contract agreement to Plaintiff.

4 79. In addition, as soon as Plaintiff had arrived in Hawaii and began working on the
5 HART project, Plaintiff learned that there had been an extremely high turnover rate for other
6 contractors on the HART project. Stantec knew that Plaintiff was only interested in the position
7 because of its promise for a 10-year contract position that would take him through retirement and
8 warrant uprooting his family and moving to Hawaii. Stantec was fully aware of the importance of
9 the length and security of the job position to Mr. Werner; nevertheless, Stantec concealed, omitted,
10 and failed to disclose the extremely high turnover rate of contractors on the HART Project,
11 including other Stantec employees. In context of the other representations set forth by Stantec
12 regarding the length and duration of the job position, its omission and failure to disclose the
13 extremely high turnover rate constituted a material misrepresentation.

14 80. In addition, the City of Honolulu April 2016 HART Audit plainly revealed
15 significant problems, noncompliance, and violations occurring with HART contract administration,
16 change orders procedures, and claims management. However, Stantec concealed, omitted, and
17 failed to disclose to Mr. Werner any of these violations when offering the position to him.

18 81. In June 2017, Norris directed Plaintiff to move and relocate back to California while
19 Stantec looked for alternative work for him. Based on Norris' direction and in reliance on his
20 promise to find additional work, Plaintiff relocated back to California at great cost to him and his
21 family. Mr. Werner's wife was further required to give up her job in Hawaii in order for them to
22 move back to California in reliance upon Stantec's further representations, which it failed to keep.

23 82. Defendants knew that the representations, as set forth herein, were false and
24 Defendants used the misrepresentations to induce Plaintiff to change his employment and move to
25 Hawaii and then back to California, which Defendants could not have achieved had they been
26 truthful.

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1 83. Defendants intended that Plaintiff rely on the representations as set forth herein.

2 84. The aforementioned conduct of Defendants was an intentional misrepresentation,
3 deceit or concealment of a material fact known to the Defendants with the intention of depriving
4 Plaintiff of property or legal rights or otherwise causing injury, and was despicable conduct that
5 subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiffs rights so as to
6 justify an award of exemplary and punitive damages.

7 85. As a direct, foreseeable and proximate result of the aforementioned wrongful
8 conduct of said Defendants, and each of them, Plaintiff has suffered and continues to sustain
9 substantial losses in earnings and other employment benefits, and other consequential economic
10 losses, in an amount according to proof at the time of trial.

11 86. As a direct, foreseeable and proximate result of the aforementioned wrongful
12 conduct of said Defendants, and each of them, Plaintiff has suffered humiliation, emotional
13 distress, and mental and physical pain and anguish, all to his damage in an amount according to
14 proof at the time of trial.

15 87. The above described acts by said Defendants, by and through their managing agents,
16 officers or directors, were engaged in with a deliberate, cold, callous, fraudulent and intentional
17 manner in order to injure and damage Plaintiff. Such acts were despicable, and constitute malice,
18 fraud and/or oppression within the meaning of Civil Code §3294. In doing the things herein
19 alleged, said Defendants, and each of them, were guilty of oppression, fraud and malice, and
20 insofar as the things alleged were attributable to employees of Defendants, said employees were
21 employed by Defendants with advance knowledge of the unfitness of the employees and they were
22 employed with a conscious disregard for the rights of others; or Defendants authorized or ratified
23 the wrongful conduct; or there was advance knowledge, conscious disregard, authorization,
24 ratification or act of oppression, fraud or malice on the part of an officer, director or managing
25 agent of Defendants, all entitling Plaintiff to the recovery of exemplary and punitive damages in an
26 amount to be proven at the time of trial.

27 88. Plaintiff has also incurred and continues to incur attorneys' fees and legal expenses
28 in an amount according to proof at the time of trial.

1 **SEVENTH CAUSE OF ACTION**

2 **Intentional Infliction of Emotion Distress**

3 **(Against All Defendants)**

4 89. Plaintiff realleges and incorporates herein by reference each and every allegation
5 contained in paragraphs 1 through 88, inclusive, hereinabove, as though set forth in full.

6 90. Defendants' conduct as described above was extreme and outrageous and was done
7 with the intent of causing Plaintiff to suffer emotional distress or with reckless disregard as to
8 whether their conduct would cause him to suffer such distress.

9 91. By the aforesaid acts and omissions of defendants, and each of them, Plaintiff has
10 been directly and legally caused to suffer actual damages including, but not limited to, loss of
11 earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary loss not
12 presently ascertained.

13 92. As a further direct and legal result of the acts and conduct of defendants, and each of
14 them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer severe
15 emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain,
16 discomfort, anxiety, physical pain and suffering. The exact nature and extent of said injuries is
17 presently unknown to Plaintiff. Plaintiff does not know at this time the exact duration or
18 permanence of said injuries, but he is informed and believes and thereon alleges that some if not all
19 of the injuries are reasonably certain to be permanent in character.

20 93. Plaintiff is informed and believes, and thereon alleges, that the defendants, and each
21 of them, by engaging in the aforementioned acts and/or in authorizing and/or ratifying such acts,
22 engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted with
23 willful and conscious disregard of the rights, welfare and safety of Plaintiff, thereby justifying the
24 award of punitive and exemplary damages in an amount to be determined at trial.

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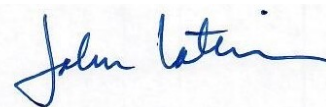
1 **PRAYER**

2 **WHEREFORE**, Plaintiff prays for judgment against Defendants, and each of them, as to
3 all causes of action as follows:

- 4 1. For general and special damages according to proof at trial, including pre-judgment
5 interest thereon;
- 6 2. For exemplary and punitive damages in an amount according to proof at trial;
- 7 3. For compensatory damages;
- 8 4. For injunctive relief;
- 9 5. For pre-judgment and post-judgment interest;
- 10 6. For Plaintiff's attorneys' fees and costs of suit incurred herein to the extent provided
11 by contract, statute, or other law, including California Code of Civil Procedure § 1021.5;
- 12 7. For double damages, including but limited to those pursuant to Labor Code § 972;
- 13 8. For such other relief as the Court may deem necessary, just, or proper.
- 14

15 DATED: October 16, 2018

JOHN LATTIN LAW, APC

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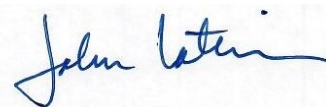
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18 _____
19 JOHN E. LATTIN
20 Attorneys for Plaintiff
JEFF WERNER

21 **JURY DEMAND**

22 Plaintiff hereby demands a jury trial on all causes of action.

23 DATED: October 16, 2018

JOHN LATTIN LAW, APC

24 

25
26 _____
27 JOHN E. LATTIN
28 Attorneys for Plaintiff
JEFF WERNER